IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.800 OF 2002

M/s. Chandrakant Shankar Naik .. Appellant

v/s.

1. Deputy Commissioner of
Income-tax, Range-3,
Aurangabad. .. Respondent

Ms.A.Khan i/by Ms.Jyoti Dailani for appellant.

Mr.R.V.Desai, senior counsel with Mr.Vijay Kantharia i/by Mr.P.Kapur for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 22nd September, 2004

P.C.

Heard Ms.A.Khan, the learned counsel for the appellant.

2. The Tribunal in the impugned order observed thus-

> "In this case the assessee is found to have received aggregated amount of loan of Rs.1,50,000/- from HUF in cash during the previous year relevant to the assessment year under consideration on ten different occasions. So the assessee has violated the provisions of section 269SS and the A.O. has imposed the penalty of Rs.1,50,000/- u/s.271D. Moreover, assessee has not been able to show or establish any sufficient cause. These transactions are admittedly not between the two agriculturists and are rather between the HUF and the assessee firm. Co-parceners though constitutent of HUF cannot be termed as HUF. Since the amount has been received by the assessee firm from HUF otherwise than the mode prescribed under sec. 269SS, thus there is clear violation which attracts penalty u/s.271D, therefore, the assessee can be visited with the same. Therefore, in my considered view, and the A.O. has rightly imposed the impugned penalty and the learned CIT(A) is unjustified in deleting the penalty. His action being unwarranted and uncalled for is reversed."

3. The consideration of the matter by the Tribunal cannot be said to suffer from any legal infirmity.

4. No substantial question of law arises. Dismissed in limine.

(R.M.LODHA, J.)

(J.P.DEVADHAR, J.)